



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

BULLETIN IC - 37
December 19, 2013

TO: ALL INSURANCE COMPANIES, FRATERNAL BENEFIT SOCIETIES, HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS AND HEALTH CARE CENTERS THAT DELIVER OR ISSUE INDIVIDUAL AND GROUP HEALTH INSURANCE POLICIES IN CONNECTICUT;

RE: GENDER IDENTITY NONDISCRIMINATION REQUIREMENTS

The purpose of this Bulletin is to advise entities delivering or issuing individual and group health insurance policies in Connecticut that discrimination against an individual because of the individual's gender identity or expression is prohibited. This prohibition extends to the availability of health insurance coverage and the provision of health insurance benefits. The Department position is based on the following state laws:

Connecticut Statutes

1. Individual and Group Mental Health Parity Statutes – Connecticut has very similar statutes for individual health insurance (section 38a-488a of the Connecticut General Statutes) and group health insurance (section 38a-514 of the Connecticut General Statutes). Both statutes apply to health insurance policies providing basic hospital expense coverage, basic medical-surgical expense coverage, major medical expense coverage, hospital or medical service plan contract coverage or hospital and medical coverage provided to health care center subscribers. These statutes require coverage for the diagnosis and treatment of “mental or nervous conditions” which are defined as those mental disorders in the most recent edition of the American Psychiatric Association’s “Diagnostic and Statistical Manual of Mental Disorders” (DSM). Gender dysphoria is a diagnosis listed in DSM 5 (the most recent edition). Under these statutes, health insurers are required to pay “covered expenses” for treatment provided to individuals with gender dysphoria where the treatment is deemed necessary under generally accepted medical standards. Gender dysphoria describes a condition in which an individual is intensely uncomfortable with their biological gender and strongly identifies with, and wants to be, the opposite gender.
2. Public Act 11-55 – The Connecticut legislature effective October 1, 2011 amended state antidiscrimination laws to specifically prohibit discrimination based on “gender identity or expression”. The Act prohibits discrimination on the basis of gender identity or expression in employment, public accommodations, housing, credit, public schools, state contracts and numerous other areas. The Department finds the legislative intent to prohibit discriminatory practices based on gender identity and expression to extend to health insurance practices. Accordingly, medically necessary services related to gender dysphoria should not be handled differently from medically necessary services for other medical and behavioral health conditions.

3. Unfair Insurance Trade Practice – Consistent with sections 38a-488a and 38a-514 of the Connecticut General Statutes and Public Act 11-55, the Department finds a refusal by an insurer to pay for medically necessary treatment of gender dysphoria to be to be an unfair claim settlement practice under section 38a-816(6) of the Connecticut General Statutes.

Categories of Health Insurance: As described above, discrimination in handling of claims for medically necessary treatment of gender dysphoria is prohibited. This prohibition extends to the categories of health insurance covered under sections 38a-488a and 38a-514 of the Connecticut General Statutes, specifically categories (1), (2), (4), (11) and (12) under section 38a-469 of the Connecticut General Statutes. These categories are basic hospital expense coverage, basic medical –surgical expense coverage, major medical expense coverage, hospital or medical service plan contract coverage and hospital and medical coverage provided to health care center members.

For other categories of health insurance included under section 38a-469 of the Connecticut General Statutes, including but not limited to, hospital indemnity, disability income, accident only and specified disease and specified accident coverage, there is no contractual commitment to pay for medically necessary care. However, based on Public Act 11-55, licensed entities are prohibited from using an exclusion based solely on gender identity or expression, including an exclusion for gender reassignment and related services, or otherwise discriminating against insured individuals with gender dysphoria.

Required Action By Health Insurers, Health Care Centers and other licensed entities writing individual and group health insurance policies

Based on the above cited statutes and this Bulletin, the Department directs entities licensed by the Department and writing individual and group health insurance policies to:

1. Effective from the date of this Bulletin, ensure that there is no discrimination against insured individuals with gender dysphoria and ensure that individuals are not denied access to medically necessary care because of the individual's gender identity or gender expression;
2. Review all current relevant health policy documents to ensure that they are compliant with this Bulletin. This includes policy language previously approved by the Department; and
3. File an endorsement reflecting any necessary revisions to health plan documents which are required as a result of this Bulletin (such as changes to insurance policies, group certificates, evidence of coverage, and subscription agreements) with the Department within 90 days from the date of this Bulletin. Also licensed entities need to include a cover letter that lists all policy forms to which the endorsement will apply along with the dates such forms were approved.

Important Note: Although a blanket policy exclusion for gender transition and related services is prohibited, a health insurer, HMO or other entity, with respect to the coverages subject to sections 38a-488a and 38a-514 of the Connecticut General Statutes, may still perform medical necessity determinations on a case by case basis with respect to an insured's request for transgender services. However, if the request is denied on the basis the services are not medically necessary, the insured has the right to an independent review through the Department's External Review Program.

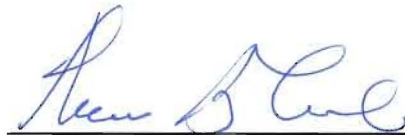
Questions

If you have any general questions concerning this Bulletin, please contact Attorney Timothy Lyons at:

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If you have questions about filing endorsements please contact:

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A handwritten signature in blue ink, appearing to read "Tom B. Leonardi", written over a horizontal line.

Thomas B. Leonardi
Commissioner